



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 39]

नई दिल्ली, सोमवार, अगस्त 18, 2003/ श्रावण 27, 1925

No. 39]

NEW DELHI, MONDAY, AUGUST 18, 2003/ SHRAVANA 27, 1925

इस भाग में चिन्ह पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 18th August, 2003:—

BILL No. 63 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (One-Hundredth Amendment) Act, 2003.

Short title.

2. In the Eighth Schedule to the Constitution,—

Amendment
of Eighth
Schedule.

(a) existing entry 3 shall be re-numbered as entry 4, and before entry 4 as so re-numbered, the entry "3. Bodo." shall be inserted;

STATEMENT OF OBJECTS AND REASONS

There have been demands for inclusion of certain languages in the Eighth Schedule to the Constitution. It is proposed to include Bodo language in the Eighth Schedule to the Constitution.

2. The Bill seeks to achieve the above object.

NEW DELHI;
The 7th August, 2003.

L. K. ADVANI.

BILL NO. 64 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (One Hundred and First Amendment) Act, Short title, 2003.

2. In the Ninth Schedule to the Constitution of India, after entry 284 and before the Amendment of the Ninth Schedule.

Explanation, the following entry shall be inserted, namely:—

“285. The Essential Commodities (Amendment) Act, 2003 (Central Act 37 of 2003).”.

STATEMENT OF OBJECTS AND REASONS

The Essential Commodities Act, 1955, *inter alia*, provides that, for maintaining or increasing the supplies of essential commodities or for securing their equitable distribution and availability at fair prices, the Central Government may issue orders regulating or prohibiting the production, supply and distribution of such essential commodities and trade and commerce therein so as to achieve the objectives of the Act.

2. The Central Government has been following a policy of partial control of sugar since 1966 and requisitioning a portion of sugar as levy sugar for the Public Distribution System. The Central Government has adopted a "regulated release" mechanism for release of levy-free sugar (free sale sugar) by issuing orders under the Sugar (Control) Order, 1966 issued under section 3 of the Essential Commodities Act, 1955. The said Order was last amended on 14th June, 1999; clause 4 of the said Order, empowered the Central Government to direct that no producer or importer shall sell or otherwise dispose of or deliver any kind of sugar or remove any kind of sugar from the bonded godowns of the factory in which it was produced or from the warehouses of importers except under and in accordance with a direction issued, in writing, by the Central Government. Similarly, clause 5 of the said Order empowered the Central Government to issue, from time to time, general or special order to producers, importers, recognized dealers, etc., regulating the production, maintenance of stocks, storage, sale, marking, weighment, disposal, delivery and distribution of any kind of sugar.

3. The aforesaid "regulated release" mechanism was challenged in the Courts which led to difficulties in operation and in decline of sugar prices, which, in turn, affected the capacity of the producers of sugar to pay cane price to the sugarcane growers. In order to safeguard the interest of sugarcane growers, the producers of sugar and the general public and to re-stabilize the market price of sugar as also to overcome the difficulties arising from litigation, the Essential Commodities Act, 1955 was amended vide the Essential Commodities (Amendment) Act, 2003 (37 of 2003) for enabling the Central Government to issue orders or directions to implement the "regulated release" mechanism effectively. If the said amendment is allowed to be challenged in courts of law, thereby delaying the implementation of the same, the very purpose of carrying out the amendment would be defeated, leading to further difficulties which will adversely affect the capacity of the producers of sugar to pay cane price to the sugarcane growers. It is, therefore, considered necessary that the Essential Commodities (Amendment) Act, 2003 be brought within the purview of the Ninth Schedule to the Constitution for giving necessary protection of article 31B of the Constitution.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

SHARAD YADAV.

The 11th July, 2003.

BILL NO. 68 OF 2003

A Bill to provide for the establishment of the State of Delhi and for matters connected therewith.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

PART I**PRELIMINARY**

1. This Act may be called the State of Delhi Act, 2003.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Administrator" means the administrator appointed by the President under article 239;

(b) "appointed day" means the day which the Central Government may, by notification, appoint;

(c) "article" means an article of the Constitution;

(d) "assembly constituency" and "parliamentary constituency" have the meanings assigned to them in the Representation of the People Act, 1950;

(e) "Election Commission" means the Election Commission referred to in article 324;

(f) "existing Union territory" means the Union territory of Delhi called as the National Capital Territory of Delhi as existing immediately before the appointed day;

(g) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument, having immediately before the appointed day, the force of law in the whole or any part of the existing Union territory;

(h) "notification" means a notification published in the Official Gazette;

(i) "sitting member", in relation to the either House of Parliament or of the Legislative Assembly of the existing Union territory, means a person who, immediately before the appointed day, is a member of that House or that Assembly, as the case may be;

(j) "treasury" includes a sub-treasury.

PART II

ESTABLISHMENT OF THE STATE OF DELHI

Establishment of the State of Delhi.

3. On and from the appointed day, there shall be established a new State to be known as the State of Delhi comprising the territories of the existing Union territory.

Amendment of the First Schedule to the Constitution.

4. On and from the appointed day, in the First Schedule to the Constitution,—

(a) under the heading "I. THE STATES", after entry 28, the following entry shall be inserted, namely:—

"29. Delhi The territories specified in section 3 of the State of Delhi Act, 2003.;"

(b) under the heading "II. THE UNION TERRITORIES", entry 1 relating to Delhi shall be omitted and entries 2 to 7 shall consecutively be re-numbered as entries 1 to 6.

Saving powers of Government.

5. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of the State of Delhi to alter, after the appointed day, area or boundaries of any district or other territorial division in the State.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

Allocation of seats in the Council of States to the State of Delhi.

6. On and from the appointed day, there shall be allotted three seats in the Council of States to the State of Delhi and in the Fourth Schedule to the Constitution, the entry 29 relating to the existing Union territory shall be deemed to be the entry relating to the State of Delhi.

Allocation of sitting members and term of their office.

7. (1) On and from the appointed day the three sitting members of the Council of States, representing the existing Union territory, shall be deemed to have been duly elected under clause (4) of article 80 to fill the seats allotted to the State of Delhi.

(2) The term of office of the sitting members shall remain unaltered.

The House of the People

Allocation of seats in the existing House of the People.

8. (1) On and from the appointed day, the allocation of seats to the State of Delhi in the House of the People shall be seven and the number of seat to be reserved for the Scheduled Castes shall be one out of those seats and the First Schedule to the Representation of the People Act, 1950 shall be deemed to be amended, accordingly.

(2) On and from the appointed day, the parliamentary constituencies of the existing Union territory shall be deemed to be the parliamentary constituencies of the State of Delhi and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be construed accordingly.

9. The sitting members of the House of the People representing the constituencies which, on the appointed day, by virtue of the provisions of section 8 become the constituencies of the State of Delhi shall be deemed to have been elected under sub-clause (b) of clause (1) of article 81 to the House of the People by those constituencies.

Provision as to sitting member.

The Legislative Assembly

10. On and from the appointed day,—

(i) the total number of seats in the Legislative Assembly of the State of Delhi to be filled by person chosen by direct election from assembly constituencies shall be seventy and the Second Schedule to the Representation of the People Act, 1950 shall be deemed to be amended, accordingly;

(ii) the assembly constituencies of the existing Union territory shall be deemed to be the assembly constituencies of the State of Delhi and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be construed accordingly;

(iii) the sitting members of the Legislative Assembly representing the constituencies which, on the appointed day, by virtue of the provisions of clause (ii) become the constituencies of the State of Delhi, shall be deemed to have been elected under clause (1) of article 170 to the Legislative Assembly of the State of Delhi;

(iv) the period of five years referred to in clause (1) of article 172 shall, in case of Legislative Assembly deemed to be the Legislative Assembly of the State of Delhi under clause (ii), be deemed to have commenced on the date on which the duration of the Legislative Assembly of the existing Union territory commenced under section 5 of the Government of National Capital Territory of Delhi Act, 1991.

1 of 1992. 11. The persons who immediately before the appointed day are the Speaker, and the Deputy Speaker, of the Legislative Assembly of the existing Union territory shall be the Speaker and the Deputy Speaker respectively, of the Legislative Assembly deemed to be the Legislative Assembly of the State of Delhi under clause (ii) of section 10.

Provisions as to the Legislative Assembly.

12. The rules of procedure and conduct of business of the Legislative Assembly of the existing Union territory, as in force immediately before the appointed day, shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly deemed to be the Legislative Assembly of the State of Delhi under clause (ii) of section 10 subject to such modifications and adaptations as may be made therein by the Speaker thereof.

Speaker and Deputy Speaker.

Rules of procedure.

PART IV

HIGH COURT

13. On and from the appointed day,—

(a) the High Court for the existing Union territory (hereinafter referred to as the existing High Court) shall be deemed to be the High Court for the State of Delhi under article 214, to be called the High Court of Delhi (hereinafter referred to as the High Court of Delhi);

(b) the Judges of the existing High Court holding office immediately before that day shall unless they have elected otherwise, become, on that day, the Judges of the High Court of Delhi;

(c) the High Court of Delhi shall have, in respect of the territories comprised in the State of Delhi, all such jurisdiction, powers and authority as, under the law in force immediately before that day, are exercisable in respect of those territories by the existing High Court.

High Court for the State of Delhi.

25 of 1961. 14. (1) On and from the appointed day, in the Advocates Act, 1961, in section 3,—

Provision as to advocates.

(i) in sub-section (1), for clause (f), the following clause shall be substituted, namely:—

“(f) for the State of Delhi to be known as the Bar Council of Delhi;”;

(ii) in sub-section (2), the words "in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex officio*;" shall be omitted.

(2) Any person who, immediately before the appointed day, is an advocate entitled to practise in the existing High Court shall be entitled to practise as an advocate in the High Court of Delhi.

(3) All persons who immediately before the appointed day, are advocates on the roll of the existing Bar Council of Delhi shall, on and from the appointed day, become advocates on the roll of the Bar Council of Delhi.

(4) The right of audience in the High Court of Delhi shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the existing High Court.

Practice and procedure in the High Court of Delhi.

15. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the existing High Court shall, with the necessary modifications, apply in relation to the High Court of Delhi.

Custody of seal of the High Court of Delhi.

16. The law in force immediately before the appointed day with respect to the custody of the seal of the existing High Court shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Delhi.

Form of writs and other processes.

17. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the existing High Court shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Delhi.

Powers of Judges.

18. The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the existing High Court and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modification, apply in relation to the High Court of Delhi.

Principal seat and other places of sitting of the High Court of Delhi.

19. (1) The principal seat of the High Court of Delhi shall be at the same place at which the principal seat of the existing High Court is located immediately before the appointed day.

(2) Notwithstanding anything contained in sub-section (1), the Judges and division courts of the High Court of Delhi may also sit at such other place or places within the territories to which the jurisdiction of that High Court extends as the Chief Justice of that High Court may, with the approval of the Governor of the State, appoint.

Procedure as to appeals to Supreme Court.

20. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the existing High Court and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Court of Delhi.

Transfer of proceedings to the High Court of Delhi.

21. (1) All proceedings pending in the existing High Court immediately before the appointed day shall, from such day, stand transferred to the High Court of Delhi.

(2) Every proceeding transferred under sub-section (1) shall be disposed of by the High Court of Delhi as if such proceeding was entertained by that High Court.

Interpretation, etc.

22. (1) For the purposes of section 21,—

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issue with respect to the taxation of the costs of the proceedings and shall include appeals, application for leave to appeal to the Supreme Court, applications for review petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division court thereof and references to an order made by a court or a Judge

shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

(2) Any person who, immediately before the appointed day, is an advocate entitled to practise in the existing High Court and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Delhi under section 21 shall have the right to appear or to act, as the case may be, in the High Court of Delhi in relation to those proceedings.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

23. (1) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of the State of Delhi as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Delhi:

Provided that the Governor of Delhi may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Delhi for any period not extending beyond the said period of six months.

(2) The President or, as the case may be, the Governor of Delhi shall make separate orders under sub-section (1) in respect of periods falling in different financial years.

24. The reports of the Comptroller and Auditor-General of India referred to in section 48 of the Government of National Capital Territory of Delhi Act, 1991, relating to the accounts of the existing Union territory in respect of any period prior to the appointed day, shall be submitted to the Governor of the State of Delhi who shall cause them to be laid before the Legislative Assembly of that State.

25. The allowances and privileges of the Governor of the State of Delhi shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158, be the same as are provided to the Administrator of the existing Union territory immediately before the appointed day.

26. The President shall, by order, determine the grants-in-aid of the revenues of the State of Delhi and share of that State in the Union duties and taxes in such manner as he thinks fit till 31st day of March, 2004.

Authorisation of expenditure pending its sanction by the Legislature.

Reports relating to the accounts of the existing Union territory.

Allowances and privileges of Governor of the State of Delhi.

Distribution of revenues.

1 of 1992.

27. In this Part "Union purposes" means the purposes of Government relatable to any of the matters mentioned in List I of the Seventh Schedule to the Constitution and entries 1 and 2 of List II of the Seventh Schedule to the Constitution and entries 64, 65 and 66 of that List in so far as they relate to the said entries 1 and 2.

28. (1) Subject to the provisions of this Part, all land and all stores, articles and other goods held immediately before the appointed day, by the Union for the purposes of the governance of the existing Union territory, shall, on and from that day, pass to the State of Delhi, unless any such land, stores, articles or goods are owned or held for Union purposes:

Provided that the ownership of land which is within the boundary of New Delhi shall vest in the Union.

Explanation.—For the purposes of this sub-section, the expression "New Delhi" has the meaning assigned to it in clause (27) of section 2 of the New Delhi Municipal Council Act, 1994.

(2) The stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall be

Definition.

Land and goods.

44 of 1994.

retained by the Union if such institution, workshop, undertaking or work is carried on for Union purposes.

(3) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property.

Cash balances. 29. The total of the cash balances in all treasuries, the Reserve Bank of India, the State Bank of India and any nationalised bank, of the existing Union territory immediately before the appointed day shall be the cash balances of the State of Delhi.

Explanation.—In this section, "balance" includes a debit balance.

Arrears of taxes. 30. (1) The right to recover arrears of any tax or duty (including arrears of land revenue) on any property situated in the territory of the State of Delhi shall belong to the State of Delhi.

(2) The right to recover arrears of any tax or duty, other than a tax or duty specified in sub-section (1), shall belong to the State of Delhi if the place of assessment of that tax or duty is included in the territory of the State of Delhi:

Provided that nothing contained in this sub-section shall empower the State of Delhi to recover any tax or duty which that State is not competent to impose.

Right to recover loans and advances. 31. (1) The liability of the Union or the Government of the existing Union territory whether attributable to the Consolidated Fund of India or the Consolidated Fund of the existing Union territory, in respect of any loan taken by the Union or the Government of the existing Union territory for the purposes of the existing Union territory shall be the liability of the State of Delhi on and from the appointed day subject to such contribution from the Union as may be determined by the Central Government.

(2) The right to recover any loans or advances made by the Union or the Government of the existing Union territory before the appointed day to any local body, society, agriculturist or other person in the territory of the State of Delhi shall belong to the State of Delhi:

Provided that the right to recover loans or advances of pay and travelling allowances to a Government servant made before the appointed day by the Administrator shall pass to the State of Delhi if such Government servant is allotted to that State.

Assets and liabilities of State undertakings. 32. The assets and liabilities relating to any commercial undertaking of the existing Union territory shall pass to the State of Delhi.

Explanation.—For the purposes of this section, the expression "any commercial undertaking of the existing Union territory" shall not include any undertaking to which the provisions of Part VII are applicable.

33. The liability of the Union to refund—

(a) any tax or duty on property, including land revenue collected in excess, shall go to the State of Delhi if the property is situated in the territories of that State;

(b) any other tax or duty collected in excess shall go to the State of Delhi if the place of assessment of that tax or duty is included in the territory of the State of Delhi.

Certain deposits. 34. The liability of the Union in respect of any civil deposit or local fund shall, on and from the appointed day, be the liability of the State of Delhi, if the deposit has been made in the territory of the State of Delhi.

Provident fund. 35. (1) The liability of the Union in respect of the provident fund account of a Government servant employed in connection with the administration of the existing Union territory and in service on the appointed day shall, on and from that day, be the liability of the State of Delhi if that Government servant is permanently allotted to that State.

(2) The liability of the Union in respect of the provident fund account of a Government servant employed in connection with the administration of the existing Union territory who has retired from service before the appointed day shall be the liability of the State of Delhi.

36. (1) Subject to the adjustments mentioned in sub-section (4), the State of Delhi shall, in respect of pensions granted before the appointed day by the Administrator of the existing Union territory, pay the pensions drawn in the treasuries in Delhi of the existing Union territory.

Pensions granted by the Administrator, etc.

(2) Subject to the adjustments mentioned in sub-section (4), the liability in respect of pensions of Government servants employed in connection with the affairs of the existing Union territory who retire or proceed on leave preparatory to retirement before the appointed day but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Delhi.

(3) The liability of the Union in respect of pensions granted before the appointed day by the Administrator and drawn in any treasury outside the existing Union territory shall be the liability of the State of Delhi.

(4) In respect of the period commencing on the appointed day and ending on the 31st day of March, 2004, and in respect of each subsequent financial year, the total payments made by the State of Delhi in respect of pensions referred to in sub-section (1) and sub-section (2) shall be apportioned between the State of Delhi and the Union in such manner as may be agreed between them before the expiration of one year from the appointed day, or in default of such agreement in such manner as the Central Government may, by order, direct.

(5) The liability in respect of the pension of any Government servant employed immediately before the appointed day in connection with the affairs of the existing Union territory and retiring on or after that day, shall be that of the State of Delhi or the Union, as the case may be, but the portion of the pension in respect of the period of service of any such Government servant before the appointed day shall be apportioned between the State of Delhi and the Union in such manner as may be agreed between them before the expiration of one year from the appointed day, or in default of such agreement in such manner as the Central Government may, by order, direct.

(6) Any reference in this section to a pension shall be construed as including a reference to the commuted value of the pension.

37. (1) Where before the appointed day, the Union has made any contract in the exercise of its executive power for any purposes of the existing Union territory that contract shall be deemed to have been made in the exercise of the executive power of the State of Delhi, if the purposes of the contract are, on and from that day, exclusively purposes of that State, and all rights and liabilities which have accrued, or may accrue, under any such contract shall, to the extent to which they would have been rights or liabilities of the Union, be rights or liabilities of the State of Delhi.

Contracts.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations.

38. Where, immediately before the appointed day, the Union, in connection with the governance of the existing Union territory, is subject to any liability in respect of an actionable wrong, other than breach of contract, that liability shall,—

Liability in respect of actionable wrong.

(a) if the cause of action arose wholly within the territories of the existing Union territory, be a liability of the State of Delhi; and

(b) in any other case, be initially a liability of the State of Delhi but subject to such financial adjustments as may be agreed upon between the State of Delhi and the

Liability as
guarantor of
co-operative
societies.

Items in
suspense.

Residuary
provision.

Apportion-
ment of
assets or
liabilities by
agreement.

Power of
Central
Government
to order
allocation or
adjustment in
certain cases.

Union, or in default of such agreement, as the Central Government may, by order, direct.

39. Where, immediately before the appointed day, the Union, in connection with the governance of the existing Union territory, is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the Union shall be a liability of the State of Delhi if the area of the operations of such society or person is limited to the territories of the existing Union territory.

40. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

41. The benefit or burden of any assets or liabilities of the Union in connection with the governance of the existing Union territory not dealt with in the foregoing provisions of this Part shall be retained by the Union.

42. Where the State of Delhi and the Union agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

43. Where, by virtue of any of the provisions of this Part, the Union becomes entitled to any property or obtains any benefits or the State of Delhi becomes subject to any liability, and the Central Government is of opinion on a reference made within a period of three years from the appointed day by the State of Delhi that it is just and equitable that property or those benefits should be transferred to, or shared with, the State of Delhi or that a contribution towards that liability should be made by the Union, the said property or benefits shall be allocated in such manner, or the Union shall make to the State of Delhi such contribution in respect thereof, as the Central Government may, after consultation with the Government of the State of Delhi, by order, determine.

PART VII

PROVISIONS AS TO ARRANGEMENTS, CORPORATIONS AND INTER-STATE AGREEMENTS

Continuance
of arrange-
ments in
regard to
generation
and supply of
electric power
and supply of
water and
disposal of
sewage.

Provision as
to co-
operative
banks.

44. If it appears to the Central Government that the arrangements in regard to the generation or supply of electric power or the supply of water or the disposal of sewage for any area or in regard to the execution of any project for such generation, supply or disposal has been or is likely to be modified to the disadvantage of that area by reason of the fact that it has been transferred by the provisions of Part II from the existing Union territory to the State of Delhi in which the power station and other installation for the generation and supply of such power or disposal of the sewage or the catchment area, reservoir and other work for the supply of water, or disposal of sewage, as the case may be, are located, the Central Government may give directions as it deems fit, to the State Government or other authority concerned for the maintenance of previous arrangement.

45. Notwithstanding anything contained in section 22 of the Banking Regulation Act, 1949, where by virtue of the provisions of Part II, a co-operative bank is newly formed on the appointed day or within three months thereof in the State of Delhi, it may commence and conduct banking business without obtaining a licence under that section from the Reserve Bank of India, until it is granted such a licence or until it is informed by the Reserve Bank of India that such a licence cannot be granted to it:

Provided that such bank applies to the Reserve Bank of India for such a licence within a period of three months from the date of formation of the bank.

59 of 1988.

46. (1) Notwithstanding anything contained in section 81 of the Motor Vehicles Act, 1988, a permit granted in the existing Union territory shall, if such permit was immediately before the appointed day, valid and effective in any area therein, be deemed to continue to be valid and effective in that area up to the 31st day of March, 2004, subject to the provisions of that Act as for the time being in force in that area and it shall not be necessary for any such permit to be countersigned by any State or Regional Transport Authority for the purpose of validating it for use in such area:

Temporary provisions as to continuance of certain existing road transport permits.

Provided that the Central Government may, after consultation with the Government of the State of Delhi, add to, amend or vary the conditions attached to the permit by the authority by which the permit was granted.

(2) No toll, entrance fees or other charges of a like nature shall be levied for a period up to and inclusive of the 31st day of March, 2004, in respect of any transport vehicle for its operations in the State of Delhi under any such permit, if such vehicle was immediately before that day exempt from the payment of any such toll, entrance fees or other charges for its operations within the existing Union territory:

Provided that the Central Government may, after consultation with the State Government of Delhi authorise the levy of any such toll, entrance fees or other charges, as the case may be.

47. Where, by virtue of the provisions of Part II, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other co-operative society or undertaking, then, notwithstanding anything contained in section 25F or section 25FF or section 25FFF, of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

Special provisions relating to retrenchment compensation in certain cases.

14 of 1947.

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment; and

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman is transferred or re-employed, is by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F or section 25FF or section 25FFF of the Industrial Disputes Act, 1947, on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

14 of 1947.

48. Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses of profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set-off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961 shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

43 of 1961.

Special provision as to income-tax.

Continuance
of existing
facilities in
certain
institutions or
universities,
etc.

49. On and from the appointed day, the Government of the State of Delhi shall, in respect of the educational or technical institutions or universities or any other State institutions located or which may be established in the State of Delhi continue to provide facilities to the persons resident in the territories comprising the State of Delhi which shall not in any respect be less favourable than those which were being provided to them immediately before that day upon such terms and conditions (including those relating to any contribution or payment to be made for the provisions of such facilities) as may be agreed upon between the State of Delhi and the Union before the 1st day of April, 2004, or if no such agreement is reached by the said date, as may be fixed by the order of the Central Government.

PART VIII

PROVISIONS AS TO SERVICES

Provisions
relating to
All-India
Services.

50. (1) In this section, the expression "State Cadre",—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) The strength and composition of the State Cadre of the State of Delhi shall, on and from the appointed day, continue as such as it is existing immediately before such day in respect of the existing Union territory, till the Central Government, by notification, provides a separate Cadre for the State of Delhi.

(3) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Services Act, 1951, or the rules made thereunder, in relation to the State Cadres of the said services and in relation to the members of those services borne on the said Cadres.

61 of 1951.

Provisions
relating to
other
services.

51. (1) Every person employed in connection with the affairs of the State of Delhi and serving, immediately before the appointed day, in the existing Union territory shall, on and from that day,—

(a) continue to serve in connection with the affairs of the State of Delhi; and

(b) be deemed to be provisionally allotted to serve in connection with the affairs of the said State:

Provided that nothing in clause (b) shall apply to a person to whom the provisions of section 50 apply or to a person on deputation from any State.

(2) As soon as may be after the appointed day, the Central Government shall by general or special order, determine whether every person referred to in clause (b) of sub-section (1) shall be finally allotted for service in the State of Delhi or under the Union in connection with the affairs of the Union territory of Andaman and Nicobar Islands and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) As soon as may be after the Central Government passes orders finally allotting an employee in terms of sub-section (2), the State of Delhi or the Union shall take steps to integrate him into the services under its control in accordance with such special or general orders or instructions as may be issued by the Central Government from time to time in this behalf.

(4) The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the division of the services between the State of Delhi and the Union; and

(b) the ensuring of fair and equitable treatment to all persons affected by the

provisions of this section and the proper consideration of any representations made by such persons:

Provided that notwithstanding anything to the contrary contained in any law or rule for the time being in force, no representation shall lie against any order passed by the competent authority on matters arising out of the division and integration of services under this Act, on the expiry of three months from the date of publication or service, whichever is earlier, of such order:

Provided further that, notwithstanding anything contained in the preceding proviso, the Central Government may *suo motu* or otherwise and for reasons to be recorded, reopen any matter and pass such orders thereon, as may appear to it to be appropriate if it is satisfied that it is necessary so to do, in order to prevent any miscarriage of justice to any affected employee.

(5) Nothing in this section shall be deemed to affect, on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the State of Delhi or the Union:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

(6) All services prior to the appointed day rendered by a person allotted under sub-section (2) in connection with the affairs of the existing Union territory shall for purpose of the rules regarding his conditions of service, be deemed to have been rendered in connection with the affairs of the State or the Union to which he is finally allotted.

(7) The provisions of this section other than clause (b) of sub-section (1) shall not apply in relation to any person to whom the provisions of section 50 apply.

52. Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing Union territory shall continue to hold the same post or office and shall be deemed, on and from that day, to have been duly appointed on the same terms and conditions of appointment and on the same tenure to that post or office by the Government of, or the other appropriate authority, in the State of Delhi or of the Union, as the case may be:

Provisions as to continuance of officers in the same posts.

Provided that nothing in this section shall be deemed to prevent a competent authority, on or after the appointed day, from passing in relation to such person any order affecting his continuance in such post or office.

53. The Central Government may give such directions to the Government of the State of Delhi as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the said State Government shall comply with such directions.

Powers of Central Government to give directions.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

54. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956, in clause (b), for the words "and Jammu and Kashmir and the Union territories of Delhi, and Chandigarh", the words ", Jammu and Kashmir, Delhi and the Union territory of Chandigarh" shall be substituted.

Amendment of section 15 of Act 37 of 1956.

55. The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and the territorial references in any such law to the existing Union territory shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within the existing Union territory before the appointed day.

Territorial extent of laws.

Power to adapt laws.

56. For the purpose of facilitating the application in relation to the State of Delhi of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression “appropriate Government”, subject to the provisions of article 371J, means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the Government of the State of Delhi.

Power to construe laws.

57. Notwithstanding that no provision or insufficient provision has been made under section 56 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Delhi, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

Provisions as to continuance of courts, etc.

58. All courts and tribunals and all authorities discharging lawful functions throughout the existing Union territory or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

Effect of provisions of Act inconsistent with other laws.

59. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Amendment of Scheduled Castes Orders.

60. (1) On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the First Schedule.

(2) On and from the appointed day, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, shall stand amended as directed in the Second Schedule.

Power to remove difficulties.

61. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the appointed day.

(2) Every order made under this section shall be laid before each House of Parliament.

Power to make rules.

62. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal of Act I of 1992.

63. The Government of National Capital Territory of Delhi Act, 1991 shall be repealed with effect from the appointed day.

THE FIRST SCHEDULE

[See section 60(1)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950,—

(1) in paragraph 2, for the figures "XXIV", the figures "XXV" shall be substituted;

(2) in the Schedule, after Part XXIV, the following Part shall be inserted, namely:—

"PART XXV.—*Delhi*

Throughout the State of Delhi:—

1. Adi-Dharmi
2. Agria
3. Aheria
4. Balai
5. Banjara
6. Bawaria
7. Bazigar
8. Bhangi
9. Bhil
10. Chamar, Chanwar, Chamar, Jatva or Jatav Chamar, Mochi, Ramdasia, Ravidasi, Raidasi, Rehgarh or Raigar
11. Chohra (Sweeper)
12. Chuhra (Balmiki)
13. Dhanak or Dhanuk
14. Dhobi
15. Dom
16. Gharrani
17. Julaha (Weaver)
18. Kabirpanthi
19. Kachhandha
20. Kanjar or Giarah
21. Khatik
22. Koli
23. Lalbegi
24. Madari
25. Mallah
26. Mazhabi
27. Meghwal
28. Naribut
29. Nat (Rana)
30. Pasi
31. Perna
32. Sansi or Bhedkut
33. Sapera
34. Sikligar
35. Singiwala or Kalbelia
36. Sirkiband."

THE SECOND SCHEDULE

[See section 60(2)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED CASTES) (UNION TERRITORIES)
ORDER, 1951

In the Constitution (Scheduled Castes) (Union Territories) Order, 1951,—

- (1) in paragraph 2, for the words and figures "Part I to III", the words and figures "Parts I and II" shall be substituted;
- (2) in paragraph 4,—
 - (i) the words and figures "Any reference in this Order to a Union territory in Part I of the Schedule shall be construed as a reference to the territory constituted as a Union territory as from the first day of November, 1956," shall be omitted;
 - (ii) for the word and figures "Part II", the word and figure "Part I" shall be substituted;
 - (iii) for the word and figures "Part III", the word and figures "Part II" shall be substituted;
- (3) in the Schedule, PART I.—*Delhi* shall be omitted and Part II and Part III shall respectively be renumbered as Part I and Part II.

STATEMENT OF OBJECTS AND REASONS

With a view to satisfying the aspirations of the people of Delhi, the Government have decided to undertake legislative measures to grant full Statehood to the National Capital Territory of Delhi. This Bill is intended to give effect to this decision and will come into force on a date to be notified by the Central Government. It seeks to form a new State of Delhi comprising the entire area of National Capital Territory of Delhi as at present. It also seeks to make the necessary supplemental, incidental and consequential provisions.

NEW DELHI;
The 13 August, 2003

L. K. ADVANI

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 12012/14/98-SR(Part-II), dated the 13th August, 2003 from Shri L.K. Advani, Deputy Prime Minister to the Secretary-General, Lok Sabha]

The President is having been informed of the subject matter of the proposed Bill to grant full Statehood to Delhi and for matters connected therewith, recommends the introduction of the Bill in the Lok Sabha under articles 3, 117(1) and 274(1) of the Constitution and the consideration of the Bill in the Lok Sabha under article 117(3) of the Constitution.

Notes on clauses

Clause 2.—This clause seeks to define various expressions used in the proposed legislation.

Clause 3.—This clause provides for the establishment of the new State of Delhi.

Clause 4.—This clause seeks to amend the First Schedule to the Constitution.

Clause 5.—This clause empowers the Government of the State of Delhi to alter, after the appointed day, the area or boundaries of any district or other territorial division within the new State.

Clauses 6 and 7.—Clause 6 provides for the allocation of three seats in the Council of States to the State of Delhi. Clause 7 deals with the representation of new State of Delhi in the Council of States. At present there are three seats in the said Council for the existing Union territory. It is proposed to continue this representation for the new State also. The sitting Member from the State of Delhi in the Council of States will be deemed to be duly elected and will represent in new State for the unexpired term.

Clause 8.—This clause deals with the representation of State of Delhi in the House of the People. At present there are seven seats in the House of the People for the existing Union territory. It is proposed to continue their representation for the new State also. The sitting Members from State of Delhi in the House of the People will be deemed to represent the new State.

Clause 9.—This clause provides that the sitting members of the House of the People representing the constituencies on the appointed day shall be deemed to be elected and will represent the new State.

Clause 10.—This clause provides for a Legislative Assembly for the State of Delhi consisting of a total number of 70 persons to be chosen by direct election and the consequent amendment to the Second Schedule to the Representation of the People Act, 1950. Assembly constituencies of the existing Union territory shall be deemed to be the assembly constituencies of the New State of Delhi. The period of five years shall be deemed to have commenced on the date on which the duration of the Legislative Assembly of the existing Union territory commenced under the Government of National Capital Territory of Delhi Act, 1991.

Clause 11.—This clause provides that the existing Speaker and the Deputy Speaker of the Legislative Assembly of the existing Union territory shall be deemed to be the Speaker and the Deputy Speaker of the Legislative Assembly of the State of Delhi.

Clause 12.—This clause provides for the continuance of the existing rules of procedure of the Legislature.

Clauses 13 to 22.—These clauses provide that the existing High Court of Judicature at Delhi will be High Court of the new State of Delhi. The detailed provision contained in other clauses follow broadly the relevant provisions of the previous Reorganisation Acts and deal, *inter alia*, with the powers, function and the procedure to be followed by the new High Court.

Clause 23.—This clause provides for the authorisation of expenditure by the President before the appointed day, and by the Governor after the appointed day, from the Consolidated Fund of the State of Delhi.

Clause 24.—This clause provides that the report of the Comptroller and Auditor General of India for a period prior to the appointed day should be submitted to the Governor of the State of Delhi.

Clause 25.—This clause provides that until Parliament makes law under article 158 (3) of the Constitution to provide for allowances and privileges to the Governor of State of Delhi, he shall have the same allowances and privileges as that of the Administrator of the Union Territory of Delhi.

Clause 26.—The clause empowers the President to determine, by order, the grants-in-aid to the State of Delhi and its share in the Union duties and taxes.

Clauses 27 to 43.—These clauses relate to the apportionment of assets and liabilities between the existing Union territory and the State of Delhi including cash balances, arrears of taxes, right to recover loans and advances, investments in the loans, etc., assets and liabilities of State Undertakings, refund of taxes collected in excess, certain deposits, liabilities as guarantor of co-operative societies, provident fund and pension accounts, government contracts/actionable wrong, items in suspense, special provision for apportionment of benefit or burden of any particular asset or liability and finally the power of the Central Government to order allocation or adjustment in certain cases of assets or liability.

Clause 44.—This clause makes provisions for continuance of arrangements in regard to generation and supply of electricity and water and also the disposal of sewage on the pattern of section 107 of the States Reorganisation Act, 1956.

Clause 45.—This clause provides that a co-operative bank which is newly formed on the appointed day or within three months thereof in the State of Delhi, it may commence and conduct banking business without obtaining licence from the Reserve Bank of India provided that the bank makes an application for the licence within three months of its formation. Such a bank will continue to function without licence until it is granted a licence by the Reserve Bank or the licence refused.

Clause 46.—This clause contains a general provision to enable continuance of existing road transport permits and follows the corresponding provisions of the States Reorganisation Act, 1956.

Clauses 47 and 48.—These clauses include for special provisions relating to retrenchment-compensation in certain cases with regard to registered co-operative societies, commercial or industrial undertakings and special provisions as to income-tax. These provisions follow similar provisions of the States Reorganisation Act, 1956.

Clause 49.—This clause deals with, and contains provisions for, the continuance of existing facilities in certain institutions or universities to residents in the territories comprising the new State of Delhi.

Clauses 50 to 53.—These clauses deal with the provisions relating to services and generally follow the similar provisions as are provided under corresponding sections of the States Reorganisation Act, 1956.

Clauses 54 to 59.—These clauses make consequential amendments in the State Reorganisation Act, 1956 and also make usual provisions regarding continuance of existing laws of the existing Union Territory of Delhi in the new State of Delhi subject to adaptations of the laws and their interpretations by the courts and tribunals, continuance of authorities exercising statutory functions, legal proceedings, etc. These provisions follow similar provisions of the States Reorganisation Act, 1956.

Clause 60.—This clause seeks to make the necessary consequential amendments in the Constitution (Schedule Castes) Order, 1950 and the Constitution (Schedule Castes) (Union Territory) Order, 1951.

Clause 61.—This clause provides that within three years from the appointed day, the President may, by order, do anything not inconsistent with the provisions which appears to him to be necessary or expedient for the purpose of removal of any difficulty arises in giving effect to the provisions of the Bill.

Clause 62.—This clause empowers the Central Government to make rules for carrying out the provisions of the Bill.

Clause 63.—This clause provides for the repeal of the Government of National Capital Territory of Delhi Act, 1991.

FINANCIAL MEMORANDUM

At present, the National Capital Territory of Delhi is given a non-plan grant of Rs. 325 crores in lieu of share of Union taxes and duties. As a State, Delhi will be entitled to a share in the income-tax and additional excise duties of the Central Government. The net share of the Delhi State in the exise duty of the Central Government shall be determined by the Finance Commission. Consequently, the State's revenue would be augmented and the non-plan revenue deficit reduced correspondingly. In the past, Finance Commission has taken note of such deficits and recommended suitable grants-in-aid under article 275 (1) of the Constitution to the National Capital Territory of Delhi. It is, therefore, until the provision is made by the Parliament in this regard, it is proposed under clause 26 to empower the President to determine, by order, the grants-in-aid of the revenues of the State of Delhi and its share in the Union duties and taxes in such manner as he thinks fit till 31st day of March, 2004.

2. Clause 51(4) of the Bill seeks to empower the Central Government to establish one or more Advisory Committees for the purpose of assisting it in regard to the discharge of its functions in relation to division of the services between the State of Delhi and the Union and for ensuring fair and equitable treatment to all the affected employees. Some expenditure may have to be incurred out of the Consolidated Fund of India for discharging the duties and responsibilities by the Committee.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 26 of the Bill empowers the President to determine by order the grants-in-aid of the revenues of the new State of Delhi and its share of the Union duties and taxes.

2. Clause 56 provides for the adaptation of existing laws to facilitate their application to the proposed State of Delhi. The power to adapt is being conferred on the Central Government in the case of laws relating to matters enumerated in the Union List in the Seventh Schedule to the Constitution and on the Government of the proposed State of Delhi in the case of all other laws. This power shall be subject to the provision contained in the proposed article 371J to be inserted by the Constitution (One hundred and second Amendment) Bill, 2003.

3. Clause 62 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. The rules, if any, will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

4. The various provisions aforementioned are modelled on identical or analogous provisions in the States Reorganisation Acts passed by the Parliament earlier. Besides, they are mainly of a consequential nature or pertain to matters of detail and procedure. As such, the proposed delegation of legislative power is of a normal character.

F.2

BILL No. 67 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (One hundred and second Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 54.

2. In article 54 of the Constitution, in the *Explanation*, the words “the National Capital Territory of Delhi and” shall be omitted.

Omission of articles 239AA and 239AB.

3. Articles 239AA and 239AB of the Constitution shall be omitted.

Insertion of new article 371J.

4. After article 371-I of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to the State of Delhi.

‘371J. (1) Notwithstanding anything in this Constitution,—

(a) Parliament shall have exclusive power to make law—

(i) for the whole or any part of the State of Delhi with respect to any matter specified in entries 1 and 2 of the State List in the Seventh Schedule and entries 64, 65 and 66 of that List in so far as they relate to the said entries 1 and 2;

(ii) for New Delhi only with respect to any matter specified in entries 5 and 18 of the State List in the Seventh Schedule and entries 64, 65 and 66 of that List in so far as they relate to the said entries 5 and 18;

(b) the executive power, in so far as it relates to—

(i) entries 1 and 2 referred to in paragraph (i) of sub-clause (a) in respect of the State of Delhi; and

(ii) entries 5 and 18 referred to in paragraph (ii) of sub-clause (a) in respect of New Delhi,

shall be exercised by the President acting, to such extent as he thinks fit, through the Governor of the State of Delhi;

(c) the President may make special provision for the reservation of appointments or posts under the State of Delhi in favour of the Scheduled Tribes.

Explanation.—For the purposes of this clause, the expression “New Delhi” has the meaning assigned to it in clause (27) of section 2 of the New Delhi Municipal Council Act, 1994.

(2) Clause (1) of article 342, in relation to the State of Delhi, shall have effect as if the words “and where it is a State, after consultation with the Governor thereof,” had been omitted therein.

(3) The President shall have executive power—

(i) to give direction to the State of Delhi for good governance and proper development of that State; and

(ii) to require that the master plan prepared for the State of Delhi shall not be implemented without his previous approval,

and such direction or requirement, as the case may be, of the President shall be binding on the Government of the State of Delhi.

Explanation.—For the purposes of this clause, the expression “master plan” means any plan which provides for land uses, building regulation or any other control norms for the development of the State of Delhi.'

STATEMENT OF OBJECTS AND REASONS

The Government of India have proposed to grant full Statehood to the entire National Capital Territory of Delhi as at present, to create a new State to be known as the State of Delhi. Considering the requirement of the National Capital, it is intended to insert a new article 371J to provide that notwithstanding anything in the Constitution, the Parliament shall have exclusive powers to make laws for the whole or any part of the State of Delhi with respect to entries 1 and 2 of the State List and entries 64, 65 and 66 of that List in so far as they relate to entries 1 and 2. The executive powers, in so far as it relates to entries 1 and 2 of the State List in relation to the whole State of Delhi and entries 5 and 18 of the State List in relation to only New Delhi area shall be exercised by the President acting, to such extent as he thinks fit through Governor of the State. Special power has also been conferred on the President to protect the interest of the Scheduled Tribes in consonance with the existing constitutional scheme. President is also empowered to give direction for the good governance and proper development of the State of Delhi. The Constitutional amendment also provides for repealing articles 239AA and 239AB and modification in article 54 of the Constitution.

2. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

L. K. ADVANI.

The 13th August, 2003.

BILL NO. 66 OF 2003

A Bill further to amend the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

42 of 1956. 1. This Act may be called the Securities Laws (Amendment) Act, 2003. Short title.

2. In section 2 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as the principal Act),— Amendment of section 2.

21 of 1860. (i) for clause (aa), the following clauses shall be substituted, namely:—

“(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860, by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society ;

(ab) "demutualisation" means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;

(ac) "derivative" includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences therefor or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;

(C) swap, options and hybrid instruments and other contracts for differences therefor;';

(ii) after clause (b), the following clause shall be inserted, namely:—

'(ba) "hybrid instruments" includes a depository instrument (being demand deposits or time deposits) or securities (being debt or equity securities) which have one or more components with payment features economically similar to swaps, futures or options;';

(iii) after clause (ga), the following clause shall be inserted, namely:—

'(gb) "scheme" means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of the members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts, of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;';

(iv) in clause (h), after sub-clause (ic), the following sub-clause shall be inserted, namely:—

"(id) units or any other such instrument issued to the investors under any mutual fund scheme;";

(v) for clause (j), the following clauses shall be substituted, namely:—

'(j) "stock exchange" means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B; or

(b) a body corporate incorporated under the Companies Act, 1956 whether under a scheme of corporatisation or demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities;

(k) "swap" includes a contract between the parties providing for the exchange of cash flows based on differences or changes in the value or level of one or more interest rates, currencies, commodities or other assets which may be specified by the Securities and Exchange Board of India.'

3. After section 4 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 4A and 4B.

'4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B:

Provided that different appointed dates may be appointed for different recognised stock exchanges:

Provided further that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, extend the appointed date specified in respect of that stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, "appointed date" means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Procedure for corporatisation and demutualisation.

Provided that the Securities and Exchange Board of India may, by notification in the Official Gazette, specify the name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or payment of dividends or provision of trading rights in lieu of membership card of the members of a recognised stock exchange have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything contained contrary to any other provision of this Act or in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised stock exchange and on all

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette:

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock-brokers of the recognised stock exchange;

(b) the right of shareholders or a stock-broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock broker of the recognised stock exchange to be appointed on the governing board of the stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, have full effect.

1 of 1956.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner, as may be specified by the regulations made by the Securities and Exchange Board of India, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights:

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months. ’.

4. Section 5 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) so numbered, the following sub-section shall be inserted, namely:—

“(2) Where the recognised stock exchange has not been corporatised or demutualised or fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything contained in other provisions of this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.”.

5. After section 8 of the principal Act, the following section shall be inserted, namely:—

Amendment
of section 5.

Insertion of
new section
8A.

1 of 1956.

“8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions of clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.”.

6. After section 12 of the principal Act, the following section shall be inserted, namely:—

Clearing corporation.

“12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange, or, clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interest of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

it may issue such directions,—

- (i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or
- (ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.”.

7. For section 18 of principal Act, the following section shall be substituted, namely:—

Insertion of new section 12A.

Power to issue directions.

Substitution of new section for section 18.

‘18. (1) Save as otherwise provided in this section, nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts—

Exclusion of spot delivery contracts.

(a) for direct sale or delivery of any security pursuant to a family arrangement entered into amongst the "relative" as defined in clause (41) of section 2 of the Companies Act, 1956;

1 of 1956.

(b) for transactions in Government securities entered into in the manner specified, from time to time, by the Reserve Bank of India or the Securities and Exchange Board of India;

(c) for transactions for sale or delivery of securities in accordance with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, made under section 30 of the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(d) being contracts entered into with the approval of the Central Government, for the purchase or sale of shares of any Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(e) for transactions for sale and delivery of securities, by, or, to a non-resident who has received specific approval under the Foreign Exchange Management Act, 1999 for such sale and delivery of securities from the Central Government or the Reserve Bank of India;

42 of 1999.

(f) being contracts entered into by any development or investment agency of the Central or State Government or any international financial agency for financing industrial projects;

(g) for sale or delivery of securities of a company in terms of pre-emption or similar right contained in the pre-emption or collaboration agreements or in the articles of association of such company or which have been approved by the Central Government or by the Securities and Exchange Board of India;

(h) for any other transaction or classes of transactions for sale or delivery of securities which may be specified by the Central Government or the Securities and Exchange Board of India from time to time.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is of the opinion that it is necessary to regulate spot delivery contracts in the interest of trade or in the public interest, by a notification, apply the provisions of sections 13, 14, 15 and 17 to spot delivery contracts and on and from the date of such notification, all provisions contained in those sections shall apply to such spot delivery contracts, except those specified in that sub-section.'

8. After section 21 of the principal Act, the following section shall be inserted, namely:—

21A.

Delisting of securities.

"21A. (1) A recognised stock exchange may delist the securities on any recognised stock exchange if—

(a) the listed company has incurred losses or its net worth has been reduced to less than its paid-up capital; or

(b) the securities of the listed company have not been continuously traded on a recognised stock exchange; or

(c) the listed company has failed to comply with the requirements of the listing agreement or provisions of any law for the time being in force; or

(d) the listed company fails to redress complaints of investors; or

(e) the listed company or its promoters or directors indulge in insider trading or unfair trade practices in securities; or

(f) the promoter or its directors or persons in management indulge in malpractices including malpractice in dematerialisation of securities in excess of issued securities or delivery of securities which are not listed or for which trading permission has not been given; or

1 of 1956.

(g) the addresses of the promoters or directors of a company are not known or addresses of such promoters or directors are false or the company changes its registered office in contravention of the provisions of the Companies Act, 1956; or

(h) trading in the securities of the company has remained suspended for a period of more than six months; or

(i) shareholdings of the company held by the public has come below the limit specified in the listing agreement under this Act:

Provided that the Securities and Exchange Board of India may specify, by regulation made by it, any other ground or grounds on which the securities of a company may be delisted:

Provided further that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) No delisting of securities on a recognised stock exchange shall be allowed by the recognised stock exchange unless the company, whose securities are listed on such stock exchange obtains prior approval of the holders of securities which are sought to be delisted by a special resolution passed at a general meeting and after giving exit opportunity to the shareholders at a fair price and complying with such conditions, as may be specified by the Securities and Exchange Board of India or by the recognised stock exchange with the approval of the Securities and Exchange Board of India.

(3) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.”.

9. For section 22F of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 22F.

“22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”.

10. In section 23 of the principal Act,—

(a) in sub-section (1), for the words “with imprisonment for a term which may extend to one year, or with fine or with both”, the words “with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both” shall be substituted;

(b) in sub-section (2),—

(i) for the word and figures “section 21,” the words, figures and letter “section 21 or section 21A” shall be substituted;

(ii) for the words “with fine which may extend to one thousand rupees”, the words “with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both” shall be substituted.

Appeal to Supreme Court.

Amendment of section 23.

Insertion of
new sections
23A to 23N.

Penalty for
failure to
furnish
information,
return, etc.

Penalty for
failure by any
person to
enter into an
agreement
with clients.

Penalty for
failure to
redress
Investor's
grievances.

Penalty for
failure in case
of stock
brokers.

Penalty for
failure to
comply with
provisions of
listing
agreement or
delisting
norms.

Penalty for
excess
dematerialisation
or delivery of
unlisted
securities.

Penalty for
failure to
furnish
periodical
returns, etc.

11. After section 23 of the principal Act, the following sections shall be inserted, namely:—

“23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress the grievances within the time stipulated in the notice or direction of the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or money of a client or clients for self or for any other client, he shall be liable for a penalty not exceeding one crore rupees.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing agreement or delisting norms or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

15 of 1992.

23F. If any person dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, he shall be liable to a penalty which may extend to one crore rupees.

Penalty for contravention where no separate penalty has been provided.

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

Power to adjudicate.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

23J. While adjudging quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:—

Factors to be taken into account by the adjudicating officer.

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default;
- (d) seriousness of the offence or violation.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Crediting sum realised by way of penalties to Consolidated Fund of India.

23L. (1) Any person aggrieved, by the order or decision of the recognised stock exchange or adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B to 22E of this Act shall apply, as far as may be, to such appeals.

Appeal to Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the appellant and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made

by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Offences.

23M. If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by the Securities Appellate Tribunal or court before which such proceedings are pending.”.

2 of 1974.

Amendment of section 25.

12. In section 25 of the principal Act, the words, brackets and letter “sub-section (1) of” shall be omitted.

Substitution of new section for section 26.

13. For section 26 of the principal Act, the following section shall be substituted, namely:—

Jurisdiction to try offences under this Act.

“26. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder save on a complaint made by the Central or State Government or the Securities and Exchange Board of India or a recognised stock exchange or a person.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.”.

Insertion of new sections 27B and 27C.

14. After section 27A, the following sections shall be inserted, namely:—

Non-attach-
ment of assets of investors.

“27B. (1) An investor may entrust any money belonging to him or his securities in which the investor has right, title or interest, to any intermediary as referred to in section 12 of the Securities and Exchange Board of India Act, 1992 for the purpose of the same being dealt with or held on behalf of and at the instance of the investor.

15 of 1992.

(2) The intermediary shall hold such money or securities of the investor as a trustee and shall have no right, title or interest of any nature whatsoever therein.

(3) The intermediary shall deal with such moneys or securities as directed by the investor and shall be accountable for the same or its proceeds to the investors.

(4) The moneys or securities of the investors referred to in sub-section (1) shall not form part of the assets or trading assets of the intermediaries and no authority shall attach or seize such assets of investors, which are in possession of an intermediary.

Right to receive income from mutual fund.

27C. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended,—

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.”.

15. In section 30 of the principal Act, in sub-section (2), for clause (ha), the following clauses shall be substituted, namely:—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 21A and the fees payable in respect of such appeal;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

(hc) the manner of inquiry under sub-section (1) of section 23-1;

(hd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;”.

16. For section 23F of the Depositories Act, 1996, the following shall be substituted, namely:—

“23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”.

Amendment
of section 30.

Amendment
of section
23F of Act 22
of 1996.

Appeal to
Supreme
Court.

STATEMENT OF OBJECTS AND REASONS

Although the Securities Contracts (Regulation) Act, 1956 aims to prevent undesirable transactions in securities by regulating the business of dealing therein, the existing mutual organisational structure of stock exchanges, (except two exchanges) failed to address the conflict of interests on stock exchanges. The Joint Committee on the Stock Market Scam and Matters Relating Thereto recommended that the process of corporatisation and demutualisation of exchanges should be expedited and underlined the necessity for early implementation of corporatisation and demutualisation of stock exchanges.

2. The Central Government, in its Action Taken Report laid before both Houses of Parliament, assured that necessary legislative amendments to give effect to the aforesaid recommendation will be made. In view of this, it is proposed to make amendments in the Securities Contracts (Regulation) Act, 1956 for structural transformation of stock exchanges from mutual organisational form to demutualised form.

3. Since the demutualisation separates ownership, voting rights and management from the right of access to trading, it requires that the representation of brokers in board of directors of stock exchanges is either not permitted at all or kept to a minimum.

4. In order to expedite corporatisation and demutualisation of exchanges, *inter alia*, it is proposed to make the following amendments to the Securities Contracts (Regulation) Act, 1956, namely:—

- (a) defining the corporatisation and demutualisation;
- (b) limiting the organisational form of a stock exchange to a corporate entity;
- (c) specifying the procedure for corporatisation and demutualisation (including approval of scheme for corporatisation and demutualisation by the Securities and Exchange Board of India);
- (d) specifying the time limit within which the shares shall be disinvested by stock brokers under the scheme of corporatisation and demutualisation;
- (e) restricting the voting rights of brokers as shareholders, and brokers' participation on governing boards of stock exchanges so as to plug the loopholes inherent in governance of stock exchanges whose organisational form is mutual.

5. Other amendments to the Securities Contracts (Regulation) Act, 1956, provide for amendment of the definition of "securities" so as to include therein units or any other such instrument issued to the investor under any mutual fund scheme and derivatives based on underlying indices, rates, etc., which themselves are not "securities".

6. It is also proposed to make certain provisions in the Securities Contracts (Regulation) Act, 1956, similar to those contained in the Securities and Exchange Board of India (Amendment) Act, 2002, such as, conferring powers upon the Securities and Exchange Board of India to issue directions to stock exchanges and the companies whose securities are listed or proposed to be listed, providing appeal from the orders of the Securities Appellate Tribunal to the Supreme Court, enhancing the penalties specified under the Securities Contracts (Regulation) Act, 1956, and adjudication by an adjudicating authority to impose monetary penalties, making provision for compounding of offences and crediting of amount of penalties into the Consolidated Fund of India, etc.

7. It is also proposed to amend the Depositories Act, 1996 to provide for appeals from the orders of the Securities Appellate Tribunal under that Act to the Supreme Court on the lines of the Securities and Exchange Board of India Act, 1992.

8. The Bill seeks to achieve the above objectives.

NEW DELHI;

JASWANT SINGH.

The 12th August, 2003.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. I/9/SE/2001-Vol. III, dated the 7th August, 2003 from Shri Jaswant Singh, Minister of Finance and Company Affairs to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Securities Laws (Amendment) Bill, 2003 has recommended under article 117(1) of the Constitution of India the introduction of the Bill in Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill seeks to amend section 30 of the Securities Contracts (Regulation) Act, 1956 to further empower the Central Government to make rules in respect of matters, namely, the form in which an appeal may be filed before the Securities Appellate Tribunal under sections 21A and 23L and the fees payable in respect of such appeals, and the manner of inquiry under sub-section (1) of section 23-I.

2. The matters in respect of which rules may be made are matters of administrative details and procedure and, as such, it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 62 OF 2003

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-04.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 4) Act, 2003.

Issue of
Rs. 8518,93,00,000
out of the
Consolidated
Fund of India
for the year
2003-04.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eight thousand five hundred eighteen crores and ninety-three lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2003-04 in respect of the services specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
1	Department of Agriculture and Cooperation	Revenue Capital	1,00,000 1,00,000	Rs. Rs.
7	Department of Chemicals and Petrochemicals	Capital	607,19,00,000	607,19,00,000
8	Department of Fertilisers	Revenue Capital	196,45,00,000 84,97,00,000	196,45,00,000 84,97,00,000
12	Department of Commerce	Revenue Capital	1,00,000 200,01,00,000 280,00,00,000	1,00,000 200,01,00,000 280,00,00,000
13	Department of Industrial Policy and Promotion	Revenue Capital	1,00,000 20,00,00,000	1,00,000 20,00,00,000
14	Department of Posts	Revenue Capital	1,00,000 1,00,000	6,00,000 8,00,000
17	Department of Consumer Affairs	Capital	3,00,00,000	3,00,00,000
29	Ministry of Environment and Forests	Revenue	2,00,000	2,00,000
31	Department of Economic Affairs	Revenue	1,00,000	1,00,000
33	Payments to Financial Institutions	Revenue Capital	1573,00,00,000 555,36,00,000	1573,00,00,000 555,36,00,000
35	Transfers to State and Union territory Governments	Revenue	365,00,00,000	365,00,00,000
42	Direct Taxes	Capital	1,00,000	1,00,000
43	Indirect Taxes	Capital	2,00,000	2,00,000
44	Department of Company Affairs	Revenue Capital	18,00,00,000 1,00,000	18,00,00,000 1,00,000
49	Department of Heavy Industry	Revenue Capital	195,78,00,000 150,34,00,000	195,78,00,000 150,34,00,000
53	Police	Revenue	1,66,00,000	1,66,00,000
54	Other Expenditure of the Ministry of Home Affairs	Revenue	20,00,00,000	20,00,00,000
62	Law and Justice	Revenue	1,00,000	1,00,000
64	Ministry of Non-Conventional Energy Sources	Revenue	1,00,000	1,00,000
77	Department of Rural Development	Revenue	3650,25,00,000	3650,25,00,000
80	Department of Science and Technology	Revenue	1,00,000	1,00,000
81	Department of Scientific and Industrial Research	Revenue	1,00,000	1,00,000
82	Department of Bio-technology	Revenue	1,00,000	1,00,000
88	Ministry of Steel	Revenue Capital	35,56,00,000 7,00,00,000	35,56,00,000 7,00,00,000
89	Ministry of Textiles	Revenue	2,00,000	2,00,000
90	Department of Culture	Revenue	2,00,000	2,00,000
98	Department of Urban Development	Capital	500,01,00,000	500,01,00,000
99	Public Works	Revenue Capital	1,00,000 1,00,000	1,00,000 1,00,000
103	Ministry of Youth Affairs and Sports	Revenue	55,00,00,000	55,00,00,000
	TOTAL		7909,96,00,000	608,97,00,000
				8518,93,00,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government, excluding Railways, for the financial year 2003-2004.

JASWANT SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.4(14)-B(SD)/2003, dated the 6th August, 2003 from Shri Jaswant Singh, Minister of Finance to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-2004, recommends under article 117(1) and (3) of the Constitution, the introduction of the Appropriation (No. 4) Bill, 2003 in Lok Sabha and also the consideration of the Bill.

BILL NO. 65 OF 2003

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-04 for the purposes of Railways.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 4 Act, 2003.	Short title.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of five hundred crores, and twenty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2003-04, in respect of the services relating to Railways specified in column 2 of the Schedule.	Issue of Rs. 500,00,25,000 out of the Consolidated Fund of India for the financial year 2003-04.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.	Appropriation.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
16.	Assets—Acquisition, Construction and Replacement—	Rs.	Rs.	Rs.
	<i>Other Expenditure</i>			
	Capital	500,00,12,000	..	500,00,12,000
	Railway Fuads	2,000	..	2,000
	Railway Safety Fund	11,000	..	11,000
	TOTAL	500,00,25,000	..	500,00,25,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government on Railways for the financial year 2003-04.

NITISH KUMAR.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 2003-B402/MS/2, dated the 13th August, 2003 from Shri Nitish Kumar, Minister of Railways to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Appropriation Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-04 for the purposes of Railways, recommends under clauses (1) and (3) of article 117 of the Constitution of India, read with clause (2) of article 115 thereof, the introduction in and consideration by Lok Sabha of the Appropriation Bill.

G. C. MALHOTRA,
Secretary-General.